

UNIFORM RULES OF COURT
SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

Chapter VII Juvenile Matters

Section One - Parties

Rule 7.1 Independent Investigation (Effective 7/1/03)

Rule 7.1.1 Access to Children in Dependency Proceedings (Effective 7/1/03)

- (a) No party or attorney in a dependency proceeding shall interview the child about the events relating to the allegations in the petition(s) on file without permission of the child's attorney or court order. This rule does not apply to the assigned DHS social worker or other authorized DHS personnel, nor to an assigned CASA. (Effective 7/1/03)
- (b) No party or attorney in a dependency proceeding shall cause the child to undergo a physical, medical or mental health examination or evaluation without court approval. This rule does not apply to the assigned DHS social worker or other authorized DHS personnel. (Effective 7/1/03)

Rule 7.1.2 Interviewing Children Who are Alleged Victims of Child Abuse (Effective 7/1/03)

All attorneys representing parties in a dependency case in which child abuse has been alleged and other participants in the case, including a child advocate, shall attempt to minimize the number of interviews they take of the child relating to the events surrounding the alleged abuse. To this end, anyone wishing to learn facts about the alleged incident shall first review any interviews taken or reports made by the investigating officer(s). (Effective 7/1/03)

Rule 7.1.3 Presence of Child in Court (Effective 7/1/03)

- (a) All children are entitled to attend court hearings. Every child ten (10) years or older shall be told of his or her right to attend court hearings and all children over the age of ten (10) shall be given notice by the investigating supervising social worker. All children over the age of ten (10) shall attend court hearings unless excused for one of the listed reasons: (Effective 7/1/03)
 - (1) The child's attorney waives the child's appearance. (Effective 7/1/03)
 - (2) The child chooses not to attend. (Effective 7/1/03)

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- (3) The child is excused by the court. (Effective 7/1/03)
- (4) The child is disabled, physically ill, or hospitalized. (Effective 7/1/03)
- (b) No child shall be brought to court solely for the child to confer with his or her attorney or to visit with a parent, relative or friend; nor for the purpose of providing the social worker with the opportunity to make a mandated face-to-face contact with the child in order to satisfy DHS regulations or regulations of the Department of Social Services. (Effective 7/1/03)

Rule 7.2 Guardian Ad Litem (Effective 7/1/03)

Rule 7.2.1 Children (Effective 7/1/03)

Upon a filing of a petition, the court shall appoint counsel for the child as provided in WIC Section 317 and CRC 1438. For the purposes of the Child Abuse Prevention and Treatment Act (Public Law 93-247), in all cases in which a dependency petition has been filed and counsel has been appointed for the child, the attorney for the child shall function as the guardian ad litem for the child in the dependency proceedings unless the court appoints another adult to serve as the child's guardian ad litem. If no counsel is appointed for the child, or if at any time the court determines a conflict exists between the role and responsibilities of the child's attorney and that of a guardian ad litem, or if the court determines it is best for the child to appoint a separate guardian ad litem, the court shall appoint another adult as the guardian ad litem for the child. The guardian ad litem for the child may be an attorney, a CASA, or a responsible adult who is not the child's parent or social worker. Appointed counsel and/or CASA must continue to represent the child at all subsequent proceedings unless properly relieved by the court. If a CASA is appointed as guardian ad litem, that person shall seek instructions from the court as to the proper reports to be filed pursuant to Rule 7.4.11. (Effective 7/1/03)

Rule 7.2.2 Adult Parties (Effective 7/1/03)

The court shall appoint any person whom the court deems qualified as a guardian ad litem to represent any incompetent parent or guardian whose child is before the Juvenile Court pursuant to a petition under WIC Section 300. No such appointment shall be made until the parent or guardian has notice of the proposed appointment and an opportunity to be heard on the issue. (Effective 7/1/03)

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Rule 7.2.3 Notice To Guardian Ad Litem. Access To Records, Right To Appear (Effective 7/1/03)

In all proceedings, the guardian ad litem shall be given the same notice as any party, and have the same access to all records relating to the case as would any party, and have the right to appear at all hearings. (Effective 7/1/03)

Rule 7.3 Care Providers/De Facto Parents/Relatives (Effective 7/1/03)

A child's care provider shall be allowed to be present at the hearing and address the court. (Effective 7/1/03)

Rule 7.4 Court Appointed Special Advocate (CASA) (Effective 7/1/03)

CASA of Kern County volunteers are appointed on behalf of children and only in dependency proceedings. CASAs serve at the pleasure of the court having jurisdiction over the proceeding in which the CASA has been appointed. In general, a CASA's functions are as follows: (Effective 7/1/03)

- (a) Support the child throughout the court proceedings. (Effective 7/1/03)
- (b) Explain the court proceedings to the child. (Effective 7/1/03)
- (c) Establish a relationship with the child to better understand the child's needs and desires. (Effective 7/1/03)
- (d) Review available records regarding the child's family history, school behavior, medical or mental health history, et cetera. (Effective 7/1/03)
- (e) Identify and explore potential resources that will facilitate family preservation, early family reunification, or alternative permanency planning. (Effective 7/1/03)
- (f) Explain the CASA volunteer's role, duties, and responsibilities to all parties associated with a case. (Effective 7/1/03)
- (g) Communicate the child's needs to the court through written reports to the court and make recommendations to the court on what placement, permanent plan, and services are best for the child. (Effective 7/1/03)
- (h) Consider whether appropriate services, including reasonable efforts, are being provided or offered to the child and the child's family. (Effective 7/1/03)

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- (i) Ensure that the court-approved plans for the child are being implemented. (Effective 7/1/03)
- (j) Attend court hearings. (Effective 7/1/03)
- (k) Investigate the interests of the child in judicial or administrative proceedings outside of Juvenile Court. (Effective 7/1/03)

In any action pursuant to Welfare and Institutions Code Sections 300 et seq., the court may, in an appropriate case and in addition to any counsel appointed for a child, appoint a CASA to represent the best interests of the child who is the subject of the proceedings. If the court determines that a child would not benefit from the appointment of counsel pursuant to Welfare and Institutions Code Section 317 and California Rules of Court 1438, the court must appoint a CASA for the child to serve as a guardian ad litem, as required by Welfare and Institutions Code Section 326.5. The CASA has the same duties and responsibilities as a guardian ad litem and must meet the requirements set forth in California Rules of Court 1438, subdivision (e). (Effective 7/1/03)

Rule 7.4.1 Sworn Officer of the Court (Effective 7/1/03)

A CASA is an officer of the court and is bound by all court rules. Each CASA shall be sworn in by a Superior Court judge before beginning his or her duties. (Effective 7/1/03)

Rule 7.4.2 Specific Duties (Effective 7/1/03)

- (a) The court shall, in its initial order of appointment, and thereafter in subsequent orders as appropriate, specifically delineate the CASA's duties in each case. Typically, a CASA is expected to conduct an independent investigation of the circumstances surrounding the case; to interview and observe the child and other appropriate individuals (that is, the parties involved in the case as well as other persons having significant information about the child); and to review appropriate reports and records, including relevant records pertaining to the child from any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, or other health care provider, psychologist, psychiatrist, law enforcement agency, or mental health clinic. The extent of a CASA's investigative authority is the same as any other officer of the court appointed to investigate proceedings on behalf of the court. A CASA is required to report the results of his or her investigation to the court and, if ordered to do so, provide the court with any other information the court specifically requests. (Effective 7/1/03)

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- (b) If no specific duties are outlined by court order, the CASA shall discharge his or her obligation to the child and court in accordance with the general duties set forth above. (Effective 7/1/03)
- (c) A CASA volunteer shall serve under the guidance and supervision of the Kern County CASA program staff and is expected to comply with operational policies and procedures approved by the program's Board of Directors, Sections 100 through 109 of the Welfare and Institutions Code, Rule 1424 of the California Rules of Court, and any and all Judicial Council guidelines, Local Rules of Court, and the provisions of any agreement entered into by the Kern County CASA program with the Juvenile Court. (Effective 7/1/03)

Rule 7.4.3 Appeal and Grievance Procedures (Effective 7/1/03)

- (a) A CASA volunteer serves at the pleasure of the court; the appointment is a privilege and not a right. The Presiding Juvenile Court Judge or his or her designee has the sole authority and power to appoint and/or remove a CASA to or from a case. There is no appeal process from the court's decision. (Effective 7/1/03)
- (b) The Kern County CASA Program has established an internal process for the submission and investigation of grievances which process shall be followed. (Effective 7/1/03)

Rule 7.4.4 Case Referral and Appointment (Effective 7/1/03)

- (a) A child's dependency case may be referred by the court to the CASA program for appointment at any point in the proceeding. (Effective 7/1/03)
- (b) Upon acceptance of the case by the program and acceptance by an available CASA volunteer, an Order for Appointment shall be submitted to the court by the CASA program staff, requesting appointment of the identified volunteer. The court may appoint a CASA volunteer at any time following the jurisdictional hearing and, in extraordinary cases, the court may appoint a CASA volunteer prior to the establishment of jurisdiction. In cases where the appointment is made prior to the establishment of jurisdiction, the court order shall specify that the duties of the child's advocate are limited to supporting the child and advocating for needed services prior to establishment of jurisdiction and shall admonish the child's advocate not to investigate jurisdictional issues. (Effective 7/1/03)

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- (c) Where the referral is not made by the court at an appearance hearing, the CASA staff will notice parties of the CASA program appointment and the name of the specific CASA volunteer assigned to the case. (Effective 7/1/03)

Rule 7.4.5 Criteria for Referral to CASA Program (Effective 7/1/03)

- (a) Severe physical/sexual abuse cases where the child is not released to a parent or relative, and the child is seriously traumatized. (Effective 7/1/03)
- (b) Special needs cases (e.g., educational, developmental, medical health needs) that involve conflicting opinions as to assessment and/or treatment for the child, or where treatment plans or resources will be difficult to arrange. (Effective 7/1/03)
- (c) Cases of repeated abuse that involve a number of issues or a number of interested parties. (Effective 7/1/03)
- (d) Children ten (10) years and under who have experienced multiple placements and whose parents have consistently failed to show progress toward or interest in fulfilling treatment plans or goals for family reunification. (Effective 7/1/03)
- (e) Children age newborn to five (5) years old in foster care, where a CASA volunteer might expedite the case toward family reunification or adoption, if reunification is not appropriate. (Effective 7/1/03)
- (f) Short term CASA intervention/involvement is required in case resolution or clarification of issues or by gathering or researching information, e.g., contacting out-of-state relatives or investigating medical concerns to assist the court in reaching a decision. (Effective 7/1/03)
- (g) Children age newborn to eighteen (18) years who have experienced three or more separate placements during any consecutive twelve month period or who have been detained at A. Miriam Jamison Center or some other residential care institution (excluding group homes) for thirty (30) days or more and who have been diagnosed as having or have a history of any of the following: (Effective 7/1/03)
 - (1) Conduct disorder with aggressive tendencies or antisocial behavior. (Effective 7/1/03)

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- (2) Attention Deficit Hyperactive Disorder treated by psychotic drugs. (Effective 7/1/03)
- (3) Self-destructive or suicidal behavior. (Effective 7/1/03)
- (4) Use of psychotropic drugs. (Effective 7/1/03)
- (5) Developmental disability. (Effective 7/1/03)
- (6) Fire setting. (Effective 7/1/03)
- (7) Manifestation of psychotic symptoms such as delusion, hallucination, or disconnected or incoherent thinking. (Effective 7/1/03)
- (8) Somatizing or psychosomatic problems such as sleeping or eating disorder. (Effective 7/1/03)
- (9) Chronic depression. (Effective 7/1/03)
- (10) Severe sexual acting-out behavior. (Effective 7/1/03)
- (11) Substance abuse. (Effective 7/1/03)
- (h) Any dependent child whose particular circumstances warrant or otherwise support the appointment of a CASA. (Effective 7/1/03)

Rule 7.4.6 Release of Information to a CASA (Effective 7/1/03)

A CASA shall have the same legal right to records relating to the child the CASA is appointed to represent as any Kern County Department of Human Services' social worker assigned to manage the child's case with regard to records held by any agency, school, organization, division or department of the state, physician, surgeon, nurse, or other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The CASA shall present his or her identification as a court appointed special advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the CASA to have access to any records relating to the child. (Effective 7/1/03)

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Rule 7.4.7 Report Of Child Abuse (Effective 7/1/03)

A CASA is a mandated child abuse reporter with respect to the case to which he or she is appointed. As such, a CASA is required to report any reasonable suspicion that the child is a victim of child abuse or serious neglect as described by Penal Code Section 273. (Effective 7/1/03)

Rule 7.4.8 Communication (Effective 7/1/03)

There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments maintained among the CASA, the social worker, the child's attorney, attorneys for parents, relatives (to the extent permitted by law), foster parents (to the extent permitted by law), and any therapist for the child (to the extent permitted by law). (Effective 7/1/03)

Rule 7.4.9 Right to Timely Notice and Right to Appear; Calendar Priority for Advocates
(Effective 7/1/03)

- (a) The CASA shall be properly and timely noticed for all proceedings held in cases to which the CASA has been appointed. (Effective 7/1/03)
- (b) The CASA has the right to be personally present at all hearings and to be heard at all court hearings. A CASA shall not be subject to exclusion by virtue of the fact that he or she may be called to testify at some point in the proceedings. A CASA shall not be deemed to be a "party" as described in Title 3 of Part 2 of the Code of Civil Procedure. However, the court, in its discretion, shall have the authority to grant the CASA amicus curiae status, which includes the right to appear with counsel. (Effective 7/1/03)
- (c) The CASA shall have the right to participate in any chambers conferences which are held in the proceedings to which the CASA has been appointed. If the child is allowed to testify in chambers or to otherwise participate in any chambers conference, the CASA shall have the right to accompany the child. (Effective 7/1/03)
- (d) In light of the fact that CASAs are rendering a voluntary service to the children and the court, matters on which they appear should be granted priority on the court's calendar, whenever possible. (Effective 7/1/03)

Rule 7.4.10 Access to Records (Effective 7/1/03)

- (a) All information concerning children and families in the Juvenile Court

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process is confidential. A CASA shall not give case information to anyone other than the Court, parties, their attorneys, and CASA staff. Any request for access to these records must be made to the Presiding Juvenile Court Judge through a Petition for Disclosure of Juvenile Court Records pursuant to Welfare and Institutions Code Section 827 (Form JV-570). (Effective 7/1/03)

- (b) The child's case file shall be maintained in the Kern County CASA office by a custodian of records. No one shall have access to that file except upon approval of the executive director of Kern County CASA. (Effective 7/1/03)
- (c) A CASA volunteer's personnel file is confidential. No one shall have access to the file or any of its contents except the volunteer, the Kern County CASA's executive director (or his or her designee), and the Presiding Judge of the Kern County Juvenile Court. Parties to a proceeding may access the personnel records of a CASA volunteer appointed in that proceeding through use of the court's subpoena power. All subpoenas are to be served on the CASA program's executive director at the Kern County CASA program's office. (Effective 7/1/03)

Rule 7.4.11 Filing and Distribution of CASA Court Reports (Effective 7/1/03)

- (a) In any case in which a CASA has been appointed by the court and is now serving on that case, the CASA must file and serve written reports to the court and on the parties and/or their counsel at least ten (10) calendar days before each of the following hearings: those dispositional hearings that have been continued pursuant to Welfare and Institutions Code Section 358, subdivision (a); six-month review; twelve-month review (permanency hearing); eighteen-month review (permanency review hearing); selection and implementation hearing (366.26 hearing); and post-permanency planning reviews. (Effective 7/1/03)

The CASA may also submit reports for any special hearings noticed to CASA of Kern County and if submitted, those written CASA reports must be filed and served on the parties and/or their counsel at least five (5) calendar days before the hearing. (Effective 7/1/03)

If the CASA is appointed before jurisdiction is established under Welfare and Institutions Code section 300, the CASA may submit a written report to the court for consideration by the court at the jurisdictional hearing; any such report must be filed and served on the parties and/or their counsel at least two (2) court days before the jurisdictional hearing. (Effective 7/1/03)

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- (b) Only parties and their counsel are entitled to receive copies of CASA reports prepared in connection with pending hearings. De facto parents are entitled to receive copies of CASA reports only if there is a court order directing distribution of the report to the de facto parents. Relatives, foster parents, and service providers are not entitled to receive copies of CASA reports in the absence of a specific court order. (Effective 7/1/03)
- (c) CASA court reports shall be copied and distributed by CASA of Kern County staff. (Effective 7/1/03)

Section Two - Proceedings

**Rule 7.5 Pre-Hearing Discovery - Dependency Cases
(California Rules of Court Rule 1420) (Effective 7/1/03)**

Rule 7.5.1 Pretrial Discovery in Proceedings under Welfare and Institutions Code Section 300 - Dependency Cases (Effective 7/1/03)

Pretrial discovery shall be reciprocal and shall be conducted on an informal basis. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation. (Effective 7/1/03)

Rule 7.5.2 Formal Discovery (Effective 7/1/03)

- (a) Formal Discovery. Only after all informal means have been exhausted may a party petition the court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) judicial days before the hearing date. The date for the hearing shall be obtained from the Clerk of the Court, Juvenile Division. A copy shall be served on the court before whom the matter is scheduled to be heard. Any responsive papers shall be filed and served two (2) judicial days prior to the hearing. (Effective 7/1/03)
- (b) Civil Discovery. In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or other similar types of civil discovery without approval of a judge of the Juvenile Court upon noticed motion as provided in Subsection (a). (Effective 7/1/03)

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Rule 7.5.3 Presentation of Evidence
(Welfare and Institutions Code Sections 280, 281; California Rules of Court
Section 1455 (Effective 7/1/03)

- (a) Social Study Reports prepared by the Department of Human Services shall be made available to all counsel before the hearing in accordance with the following time limitations unless otherwise ordered by the court:
(Effective 7/1/03)
 - (1) Jurisdictional and/or Dispositional Reports are due at least three (3) court days before the hearing or prior to any scheduled Meet and Confer or Mediation. (Effective 7/1/03)
 - (2) Review of Dependency Status and Status Review Reports are due at least ten (10) calendar days before the hearing. (Effective 7/1/03)
 - (3) All other reports shall be due a reasonable number of days before the hearing. (Effective 7/1/03)
- (b) If the court does not find good cause for the failure to file a social study report in a timely fashion, the court may impose appropriate sanctions.
(Effective 7/1/03)
- (c) The names of any experts to be called by any party and copies of their reports, if not part of a Social Study Report prepared by DHS, shall be provided to all counsel at least ten (10) days before the hearing. (Effective 7/1/03)

Rule 7.6 Juvenile Court Dependency Mediation (Welfare and Institutions Code Section 350; Judicial Administration Standards Section 24.6) (Effective 7/1/03)

Rule 7.6.1 Process and Purpose of Juvenile Dependency Mediation (Effective 7/1/03)

Juvenile dependency mediation is a process in which a neutral person assists the parties in reaching an agreement resolving their dispute. The mediator is not a judge and has no authority to decide the case. The goal of juvenile dependency mediation is to find a negotiated resolution acceptable to all parties. Juvenile dependency mediation provides the parties an opportunity to re-frame their relationship from that of adversaries to cooperative partners. (Effective 7/1/03)

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The mediator will meet with the parents or guardians, with the Department of Human Services' Social Worker and/or supervisor, and with counsel for all the parties including the child(ren) to discuss their issues and concerns. No agreement will be made without the input of the interested parties and their concurrence. Children may attend juvenile dependency mediation sessions with their attorney's consent. CASA representatives may attend sessions of the children they represent. Support persons may also be included in juvenile dependency mediation provided child's counsel waives the child's right to confidentiality, the parents agree to the support person's participation and the support person is a relative, a non-relative extended family member, a counselor or member of the clergy. The mediator may meet with each party separately or may work with everyone together in the same room. (Effective 7/1/03)

Rule 7.6.2 Referral to Dependency Mediation (Effective 7/1/03)

A case may be referred to juvenile dependency mediation at several points during the juvenile court's dependency process: before jurisdictional hearing, at jurisdiction, at disposition, at any review hearing, or for exit orders. (Effective 7/1/03)

Cases are referred to juvenile dependency mediation by a court order. Any party may request juvenile dependency mediation during the dependency process. The judge may also order juvenile dependency mediation. The parties involved in juvenile dependency mediation will determine the issues to be mediated through consultation with each other, the mediator, and the court. (Effective 7/1/03)

Rule 7.6.3 Confidentiality (Effective 7/1/03)

Juvenile dependency mediation is a confidential process. Each party, including any support person, will sign a confidentiality statement which explains that the information learned as a result of juvenile dependency mediation cannot be disclosed in the proceedings by any of the parties with the following exceptions: Reasonable suspicions of child abuse not previously reported, threats of harm to self or others, and the written report outlining the resolved and contested issues. All parties and CASA representatives are relieved of confidentiality restrictions while participating in juvenile dependency mediation. (Effective 7/1/03)

Rule 7.6.4 Reports to the Court (Effective 7/1/03)

When the parties are able to agree on certain issues, the juvenile dependency mediator will report to the court what areas of agreement have been reached and what issues remain in dispute. The juvenile dependency mediator will not discuss the case with any party outside the juvenile dependency mediation session or with the court at any time. (Effective 7/1/03)

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A copy of the juvenile dependency mediator's report will be provided to each of the attorneys involved in the case, to County Counsel, to the Department of Human Services, and to the Clerk of the Juvenile Court for review prior to the hearing. In cases where the parties are in full agreement about jurisdictional and dispositional issues, the agreement may be presented to the court upon completion of mediation. The mediator will notify the court to determine if the case can proceed to an immediate hearing. (Effective 7/1/03)

Rule 7.6.5 **Role of the Social Worker** (Effective 7/1/03)

The Department of Human Services will have a social worker and/or supervisor present at juvenile dependency mediation who is knowledgeable concerning the particular case and who is empowered to make decisions concerning that case on behalf of the department, subject to consultation with their counsel. (Effective 7/1/03)

Rule 7.6.6 **Complaints** (Effective 7/1/03)

The Local Policies and Procedures for Dependency Mediation in Kern County complaint forms are available from the Clerk of the Juvenile Court. (Effective 7/1/03)

Rule 7.6.7 **Non Compliance** (Effective 7/1/03)

Failure of any person, including attorneys, to comply with any court order described in this section, including attendance at a mediation conference and timely submission of social studies reports, may result in the imposition of sanctions pursuant to Code of Civil Procedure Section 177.5. (Effective 7/1/03)

A parent who has been given proper notice of a mediation conference and who willfully fails to appear for the mediation may be prohibited from presenting evidence at the contested hearing on the issues that were referred to mediation. (Effective 7/1/03)

Rule 7.6.8 **Contempt/Breach of Confidentiality** (Effective 7/1/03)

A breach of juvenile dependency mediation confidentiality may result in sanctions including contempt and/or the imposition of monetary sanctions. (Effective 7/1/03)

Rule 7.7 **Meet And Confer Conferences** (Effective 7/1/03)

(a) Meet and Confer conferences may be calendared by a judicial officer for

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the purpose of attempting to resolve or narrow the disputed issues. Counsel and all parties shall be ordered to appear at the date and the time set for the conference. Counsel should anticipate keeping their calendars clear of possible conflicts with scheduled meet and confer conferences. (Effective 7/1/03)

- (b) At the appointed date and time, all counsel, social workers and CASA, if appointed to the case, shall meet and confer outside the courtroom. Counsel shall advise their clients of any proposed settlement. A Joint Pretrial Statement shall be submitted to the court immediately after the conclusion of the negotiations. (Effective 7/1/03)

Rule 7.7.1 Joint Pretrial Statement (Effective 7/1/03)

In every contested W & I Section 300 et seq. matter for which a meet and confer conference is calendared, counsel for the parties must sign and file a Joint Pretrial Statement no later than one (1) court day after the Meet and Confer. A copy must be provided to each party including CASA and the social worker. The statement must be signed by all counsel and be the product of a good-faith meet and confer conference. The statement shall be in pleading form. Failure to file a legible Joint Pretrial Statement will be considered a violation of these orders. The following must be included in the pretrial statement: (Effective 7/1/03)

- (a) Names of the attorneys and whom each represents. (Effective 7/1/03)
- (b) Identification of the type of hearing by reference to the appropriate statute and subdivision, and the date, time and place of the setting. (Effective 7/1/03)
- (c) Identification of any party requiring the assistance of an interpreter, language and dialect. (Effective 7/1/03)
- (d) A stipulated Statement of Facts for which no evidence at trial will be necessary. (Effective 7/1/03)
- (e) A list of the specific issues to be determined at the hearing. (Effective 7/1/03)
- (f) A list of each witness each party intends to call in his or her case-in-chief, including an offer of proof as to each witnesses' anticipated testimony. (Effective 7/1/03)

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- (g) A list identifying all documentary and physical evidence each party intends to introduce at trial. After each exhibit, it is to be plainly indicated whether counsel stipulate to its admissibility without the need for discussion or testimony at trial. (Effective 7/1/03)
- (h) A time estimate for the entire hearing, including rebuttal. (Effective 7/1/03)

Rule 7.7.2 Sanctions (Effective 7/1/03)

Failure of counsel or a party to attend the Meet and Confer and sign and file a timely Joint Pretrial Statement will result in sanctions against the offending party. Failure of one counsel or party to comply with this rule does not excuse any other counsel or party from compliance. (Effective 7/1/03)

Failure of the parties to appear at the Meet and Confer Conference may result in the parties or their counsel being precluded from presenting evidence at the contested hearing. Children need not be present at the Meet and Confer Conference unless they are specifically ordered to appear. (Effective 7/1/03)

Rule 7.7.3 Time for Filing Report (Effective 7/1/03)

When a Meet and Confer Conference is calendared, the Department of Human Services shall prepare a report for use by counsel and parties at the Meet and Confer Conference. The report shall be submitted to the parties no later than three (3) court days prior to the Meet and Confer Conference, or as directed by the court. (Effective 7/1/03)

The Meet and Confer conferences shall be scheduled on Wednesday afternoons in the County Counsel's Office, or as otherwise ordered by the court. The Meet and Confer conferences shall be scheduled each hour commencing at 1:00 p.m. (Effective 7/1/03)

Rule 7.7.4 No Hearing to Exceed Time Limit (Effective 7/1/03)

No contested hearing shall exceed a good faith time estimate as agreed to in the Joint Pretrial Statement without good cause. A failure to comply with Section 7.71 is not grounds for a continuance. (Effective 7/1/03)

Rule 7.8 Requests for Transcripts (Effective 7/1/03)

Any party requesting the court to pay for a reporter's transcript shall apply in writing to the judicial officer who heard the matter in question or to the Presiding Judge. Alternatively, a party may orally request at a court hearing that the court order a transcript be prepared. (Effective 7/1/03)

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Section Three - Motions and Orders

Rule 7.9 Notice to CASA re: Continuance (Effective 7/1/03)

When a Motion for Continuance is made pursuant to written stipulation of the parties, the CASA volunteer need not sign the stipulation to obtain the continuance; however, the CASA office must be notified of any continuance dates including Meet and Confer and Mediation dates. (Effective 7/1/03)

Rule 7.10 Documents Presented for Filing (Effective 7/1/03)

For cases involving multiple minors, counsel/parties shall submit one additional copy of the document for each additional minor named on any document submitted to the court for filing. The Superior Court Clerk's Office will place the additional copies in each minor's file. (Effective 7/1/03)

Section Four - Competency Standards

Rule 7.11 Purpose and Authority (Effective 7/1/03)

These rules are established to comply with Rule 1438(a), California Rules of Court. (Effective 7/1/03)

Rule 7.12 General Competency Requirement (Effective 7/1/03)

- (a) All attorneys appearing in juvenile dependency proceedings must meet minimum standards of competence as set forth in these rules. These rules are applicable to attorneys employed by public agencies and attorneys appointed by the court to represent any party in a juvenile dependency proceeding. (Effective 7/1/03)
- (b) Every party in a dependency proceeding who is represented by an attorney is entitled to competent counsel (Welfare and Institutions Code Section 317.5, California Rules of Court 1438 [c]). "Competent counsel" means an attorney who is a member in good standing of the State Bar of California, who has participated in training in the law of juvenile dependency, and who demonstrates adequate forensic skills, knowledge and comprehension of the statutory scheme, the purposes and goals of dependency proceedings, the specific statutes, rules of court, and cases relevant to such proceedings, and procedures for filing petitions for extraordinary writs. (California Rules of Court 1438 [c][1]) (Effective 7/1/03)

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Rule 7.13 Attorney Screening and Standards of Representation (Effective 7/1/03)

Rule 7.13.1 Certification of Competency (Effective 7/1/03)

All Public Defenders, County Counsel and appointed attorneys who represent parties in Juvenile Court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Any appointed attorney, Public Defender or County Counsel appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the court within ten (10) days of his or her first appearance in a dependency matter. (Effective 7/1/03)

Rule 7.13.2 Attorneys Not Meeting Standards (Effective 7/1/03)

Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case within the six month period prior to the submission of a certification to the court, that a particular attorney does not meet minimum competency standards. In such cases, the court shall proceed as set forth in Rule 743 hereinafter. (Effective 7/1/03)

Rule 7.14 Determining Appropriate Caseloads for Appointed Children's Counsel
(Effective 7/1/03)

The attorney for the child must have a caseload that allows the attorney to perform the full range of duties required by Welfare and Institutions Code Section 317 (e), California Rules of Court 1438, the rules of the California State Bar Standards of Professional Conduct, and these rules, and to otherwise adequately counsel and represent the child. To enhance the quality of representation afforded to children, attorneys appointed under Welfare and Institutions Code Section 317 (c) must not maintain a maximum full-time caseload that is greater than that which allows them to meet requirements set forth in relevant statutes, California Rules of Court, and these local rules of court, particularly those requirements that relate to experience and education and standards of representation. (Effective 7/1/03)

Rule 7.15 Minimum Standards of Education and Training (Effective 7/1/03)

Rule 7.15.1 Training and Educational Requirements (Effective 7/1/03)

Each attorney appointed to appear in a dependency matter before the Juvenile Court shall not seek certification of competency and shall not be certified by the court as competent until the attorney has completed the following minimum training and educational requirements. To obtain a Certification of Competency, counsel shall have: (Effective 7/1/03)

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- (a) Participated in at least eight (8) hours of training or education in Juvenile Dependency law, which training or education shall have included information on the applicable case law and statutes, the Rules of Court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation and reasonable efforts; or (Effective 7/1/03)
- (b) At least six (6) months experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the court shall consider whether the attorney's performance has substantially complied with the requirements of these rules. (Effective 7/1/03)

Rule 7.15.2 Renewal of Certification of Competency (Effective 7/1/03)

- (a) In order to retain his or her certification to practice before the Juvenile Court, each attorney who has been previously certified by the court shall submit a new Certificate of Competency to the court every three (3) years after initial certification. The attorney shall attach the renewal Certification of Competency as evidence that he or she has completed at least eight (8) hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certification of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider, a copy of the training or education program schedule, together with evidence of attendance of such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court sponsored or approved program will also fulfill this requirement. (Effective 7/1/03)
- (b) The attorney's continuing training or education shall be in the areas set forth in Rule 743.1(a), or in other areas related to juvenile dependency practice including, but not limited to, special education, mental health, health care, immigration issues, the Rules of Evidence, adoption, practice and parentage issues, the Uniform Child Custody Jurisdiction Enforcement Act, the Parental Kidnaping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice and Rules of Civil Procedure. (Effective 7/1/03)

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Rule 7.16 Attorney-Client Obligations for Attorneys Representing Dependent Children
(Effective 7/1/03; rev. 1/1/06)

Counsel for the child or the counsel's agents are expected to: (Effective 7/1/03)

- (a) Have sufficient personal contact with the child to establish and maintain an adequate and professional attorney-client relationship. The child's attorney or attorney's agent must have personal contact with the child prior to the jurisdictional hearing and, thereafter, as often as competent representation requires. In no event shall such subsequent personal contact occur less than once every six (6) months after assumption of jurisdiction. The attorney or attorney's agent shall interview all children four (4) years or older in person. Whenever possible, the child shall be interviewed at the child's placement. (Effective 7/1/03)
- (b) Explain fully, consistent with the child's ability to understand, the nature and consequences of the court proceedings. (Effective 7/1/03)
- (c) Have sufficient contact with the child's care-giver, CASA, if any, and/or therapist, if any, to assess accurately the child's well-being and needs. (Effective 7/1/03)
- (d) Monitor the child's development throughout the course of the proceedings and advocate for services that will provide a safe, healthy, and nurturing environment for the child. (Effective 7/1/03)
- (e) Maintain a caseload that allows the attorney to perform the duties required by Welfare and Institution Code Section 317(e) and California Rules of Court 1438, and to otherwise adequately counsel and represent the child; and (Effective 7/1/03; rev. 1/1/06)
- (f) Immediately inform the court of any interest or right of the child which may need to be protected or pursued in other judicial or administrative forums and seek instructions from the court as to the appropriate procedure to follow. (Effective 7/1/03)

Rule 7.17 Procedures for Reviewing and Resolving Complaints and Requests for Appointment of New Counsel (Effective 7/1/03)

Rule 7.17.1 Notice of Complaint Procedures (Effective 7/1/03)

Each appointed attorney shall give written notice to his or her adult client of the procedure for lodging complaints with the court concerning the performance of an

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appointed attorney. The notice shall be given to the client within ten (10) days of the attorney's appointment to represent the client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the court within ten (10) days of a request therefor from the court. In the case of a minor client, the notice shall be mailed or given to the current caretaker of the child. If the minor is twelve (12) years of age or older, a copy of the notice shall also be sent to the minor. (Effective 7/1/03)

Rule 7.17.2 Written Complaint (Effective 7/1/03)

Any party to a juvenile court proceeding may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a relative caretaker or a foster parent. (Effective 7/1/03)

Rule 7.17.3 Court Response to Complaint (Effective 7/1/03)

A copy of the complaint shall be provided to the attorney complained of within ten (10) days of receipt by the court. The court shall review the complaint to determine if the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules. The court may either schedule a hearing on the complaint, in which case the party and the attorney shall be notified of their right to be present, or the court may seek a written response from the attorney and rule on the complaint in writing. Any hearing or written ruling shall occur within thirty (30) days of the date the complaint is received by the court. (Effective 7/1/03)

Rule 7.17.4 Court Action Upon Complaint (Effective 7/1/03)

If, after a hearing on the issue or the court's review of the written materials provided, the court finds that the attorney acted contrary to the law, the rules of professional responsibility, or the rules of the court, the court may relieve the attorney and appoint other counsel to represent the party. (Effective 7/1/03)

Rule 7.17.5 Notification of Attorney and Complaining Party (Effective 7/1/03)

In the event of a hearing, the court may take the matter under submission, or the court may render an oral ruling at the conclusion of the hearing. Absent such an oral ruling, the court shall send its written ruling on the complaint to the attorney and the complaining party within twenty-four (24) hours of issuing the written ruling. If no hearing was held, the attorney shall have ten (10) days after the date

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of the written ruling to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final. (Effective 7/1/03)

Rule 7.17.6 Attorney Request for Hearing (Effective 7/1/03)

If the attorney requests a hearing pursuant to Rule 745.1.4, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the attorney's request therefor, but in no case shall it be held more than thirty (30) days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least ten (10) days notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. (Effective 7/1/03)

Rule 7.17.7 Conduct of Hearing (Effective 7/1/03)

At the hearing, the complainant and the attorney shall have the right to present arguments with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within ten (10) days after the hearing, the court shall issue a written determination upholding, reversing or amending the court's original determination. This decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney, as well as the Indigent Defense Program administrator if the attorney has been appointed to the case as a member of the IDP, or to the Public Defender if the attorney is a Deputy Public Defender. (Effective 7/1/03)

Rule 7.17.8 Procedures for Informing the Court of the Interests of a Dependent Child (Effective 7/1/03)

- (a) At any time during the pendency of a dependency proceeding, any interested person may notify ~~in~~ the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the minor becomes aware that the minor may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, counsel for the minor shall notify the court of such right or interest as soon as it is reasonably possible for counsel to do so. (Effective 7/1/03)

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- (b) Notice to the court may be given by the filing of Judicial Council Form JV-180 or by the filing of a declaration. In either case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there. (Effective 7/1/03)
- (c) The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued. (Effective 7/1/03)
- (d) The child's attorney shall inform the court in writing at least every six (6) months of the status of any non-dependency-related litigation or potential litigation involving a child. (Effective 7/1/03)

Rule 7.17.9 Oral Request for a New Attorney (Effective 7/1/03)

During any hearing in a dependency proceeding, a party may make an oral request for his or her attorney to be relieved and for new counsel to be appointed.

When such a request is made, the court shall suspend the hearing and conduct an in camera hearing. If the court determines there is good cause to relieve the attorney, the attorney shall be relieved and a new attorney appointed. The dependency proceeding shall then be continued to permit the new attorney to become familiar with the case. If the court determines there is not good cause to relieve the attorney, the dependency hearing shall resume with the attorney continuing to represent the party. (Effective 7/1/03)